

# FILE COPY



BENEFIT SERVICES DIVISION  
P.O. Box 942716  
Sacramento, CA 94229-2716  
**888 CalPERS (or 888-225-7377)**  
TDD - (916) 795-3240; FAX - (916) 795-3933

Reply To: Section 410

June 1, 2011

Dear Randy G Adams:

When you began receiving your retirement allowance, we based our calculation on information available prior to your retirement date. Since then we have received additional information about your retirement. Your allowance has been adjusted on the basis of this information.

Reason(s) for the adjustment:

- Change In Service Credit
- Change In Contributions

This adjustment will result in an increase of \$228.15 to your current allowance and a retroactive adjustment from date of retirement through May 31, 2011 of \$1,574.23.

Your July 1, 2011 warrant will be as follows:

<b>NEW OPTION 3 ALLOWANCE</b>	\$ 22,347.94
<b>RETROACTIVE ADJUSTMENT</b>	\$ 1,574.23
<b>GROSS ALLOWANCE (TOTAL)</b>	<b>\$ 23,922.17</b>

Your August 1, 2011 and future warrants will be in the amount of \$22,347.94 less any authorized deductions.

## RETIREMENT CALCULATION AND ADJUSTMENTS

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BENEFIT SERVICES DIVISION  
P.O. Box 942711  
Sacramento, CA 94229-2711  
888 CalPERS (or 888-225-7377)  
TDD - (916) 795-3240; FAX - (916) 795-3933

R~1.. to. Section 412

December 27, 2010

Randy G Adams

**YOUR SERVICE RETIREMENT ALLOWANCE:**

Your election to receive the Option 3 Allowance has been processed. Your monthly retirement benefit is \$22,119.80 based on your retirement date of 12/04/2010. This amount does not include any deduction you have authorized this system to make. Your first regular warrant will arrive on or shortly after 02/01/2011 and will cover the period of 01/01/2011 through 01/31/2011. Your retroactive warrant will be issued on 01/04/2011, and will cover the period of 12/04/2010 through 12/31/2010. Your future retirement warrants will be mailed to arrive on or shortly after the first of the month following the month to which they apply.

Please endorse and cash or deposit each warrant promptly. Unless direct bank mailings are authorized, your personal endorsement is required. If you have requested direct deposit, it will take effect in 30 to 60 days.

Your retirement allowance shown above is an approximation of the amount you are eligible to receive. An adjustment to your account, if needed, to reflect an increase in service (i.e. Golden Handshake service credit), a change in retirement date, or increase in salary will be completed after final payroll information has been received. Any questions concerning an adjustment or pertaining to your future retirement benefits should be directed to the Benefit Services Division, P.O. Box 942711, Sacramento, CA 94229-2711 or by telephoning toll-free 888 CalPERS (or 888-225-7377).

**BENEFICIARY/SURVIVOR ALLOWANCE:**

Upon your death, benefits will be paid to your beneficiary in accordance with the designation indicated on your retirement election document. If you elected a benefit which requires marriage, domestic partnership, and/or birth documentation and you have not submitted these documents, please send them immediately to the Benefit Services Division. If the documents are not on file at the time of your death, it may be necessary to delay payment of benefits to your beneficiary.

If your beneficiary predeceases you, your allowance will increase to the Unmodified Allowance. You may modify your election to Option 1, 2, 2W, 3, 3W, or 4 and name a new beneficiary. You may also modify your election after a qualifying life event. For more information on modification of election, request CalPERS publication, **"Changing Your Beneficiary or Monthly Benefit After Retirement"**.

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**Employer Services Division**  
P.O. Box 942709  
Sacramento, CA 94229-2709  
Telecommunications Device for the Deaf - (916) 795-3240  
**888 CalPERS (or 888-225-7377)**      FAX (916) 795-4166

**COPY**

**CERTIFIED MAIL---RETURN RECEIPT REQUESTED**

December 17, 2010

Randy Adams

Dear Mr. Adams:

This letter is in regard to the compensation that the City of Bell (City) reported in its payroll reports to the California Public Employees' Retirement System (CalPERS) on your behalf as Chief of Police.

Under the Public Employees' Retirement Law the amount of "compensation earnable" that an employer reports to CalPERS is used to determine member contributions and to calculate retirement benefit allowances. Compensation earnable consists of "payrate" and "special compensation." If an employer reports compensation in excess of compensation earnable, member contribution amounts will be incorrect and any excess compensation will not be considered in calculating your retirement benefit.

"Payrate" is defined in Government Code Section 20636, subdivision (b)(1) in part, as:

...the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.  
...

"Special compensation" is defined in Government Code section 20636, subdivision (c), in part, as:

...(1) Special compensation ...includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.  
...

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation"  
...

(7) Special Compensation does not include ....

December 17, 2010

(C) Other payments the board has not affirmatively determined to be special compensation.

The Board has promulgated an exclusive list of special compensation items at Title 2, California Code of Regulations, section 571.

CalPERS' Office of Audit Services completed a review of the City's payroll reporting and member enrollment processes (OAS Report) on November 12, 2010. The OAS Report notes that the California Attorney General filed a complaint with the Superior Court of California, County of Los Angeles (Complaint)<sup>1</sup> against various persons, including the City, the Chief of Police and others, which alleges, among other facts, receipt of excessive and wasteful compensation which could wrongfully increase retirement benefits (Civil Action). In light of the Complaint, no adjustment of payroll by City will be required at this time for amounts that may have been erroneously reported as compensation earnable because the proper amount of compensation earnable may be affected by a ruling in the Civil Action. Thereafter adjustments to compensation earnable may be required. If any City officer or employee should apply for retirement before conclusion of the Civil Action, CalPERS' calculation of retirement benefits will take into account only compensation paid that it determines was proper and authorized, pursuant to properly approved and publicly available valid contracts entered into prior to 2005, or pursuant to publicly available pay schedules that can be substantiated as meeting the definition of compensation earnable.

The OAS Report found that the payrate for the Chief of Police position was over-reported and recommends that the payrate of the Chief of Police be based upon the City's most recent publicly available pay schedule for the position. The most recent available documentation that CalPERS has been provided in which the City set forth the salary for the Chief of Police position is contained in Resolution No. 95-43 for fiscal year 1995/1996 which provided a monthly salary range for Chief of Police of \$5,842 to \$7,101.

For purposes of determining final compensation, CalPERS reviewed the compensation reported by your previous employer, City of Glendale. Based on the information received from the City of Glendale, CalPERS was able to validate the payrate and special

<sup>1</sup> The Complaint seeks a judgment to, among other things, (i) require the Chief of Police to make restitution to CalPERS for any amount of pension benefits received that was in excess of what was reasonable and appropriate, in an amount to be determined at trial; (ii) require the Chief of Police to make restitution to the City for compensation approved and/or accepted and which was in excess of what was reasonable and appropriate, in an amount to be proven at trial; (iii) declare that all employment contracts and addenda of the Chief of Police executed in and after 2005 are null and void *ab initio*; (iv) declare that compensation paid to each defendant by the City in excess of what was reasonable, in an amount to be proven at trial, is not to be considered for determination of CalPERS pensions; and (v) enjoin the City from reporting to CalPERS any salaries in excess of what is reasonable and appropriate, in an amount to be proven at trial. The Complaint seeks a judgment that the employment contracts of the Chief of Police are void from the date of their execution and seeks to have the Court determine the level of salaries that are reasonable and appropriate.

December 17, 2010

compensation reported and has determined the monthly payrate of \$17,942 and monthly special compensation of \$1,632.61, for a total of \$19,574.61, is the final compensation that will be used for your retirement calculation.

It should also be noted that depending on the outcome of the Civil Action or upon the discovery of additional information, CalPERS reserves the right to raise additional issues relating to the determination of compensation earnable and service credit, including but not limited to further consideration of part-time employment, concurrent service in multiple positions, and eligibility for retirement and health plan membership.

You have the right to appeal the decision referred to in this letter if you desire to do so, by filing a written appeal with CalPERS, in Sacramento, within **thirty days of the date of the mailing of this letter**, in accordance with Government Code section 20134 and sections 555-555.4, Title 2, California Code of Regulations.

An appeal, if filed, should set forth the factual basis and legal authorities for such appeal. A copy of the applicable statute and Code of Regulations sections are included for your reference. If you file an appeal, the Legal Office will contact you and handle all requests for information.

Your appeal will be set for hearing with the Office of Administrative Hearings (OAH). The assigned CalPERS attorney will contact you to coordinate a hearing date. Depending on the current caseload of the OAH and the assigned attorney, the hearing date may be set several months after the case is opened. The OAH will typically offer its earliest available hearing date that meets the schedule of both parties.

If you choose not to be represented by an attorney, the assigned CalPERS lawyer will be in direct communication with you during the appeal process. If you do hire an attorney, please let CalPERS know immediately so our attorney can work directly with him or her. Enclosed is an informational brochure on the General Procedures for Administrative Hearings.

After the hearing is completed, the Administrative Law Judge will issue a Proposed Decision in approximately 30 days. The CalPERS Board of Administration will then make a determination whether to accept or reject that Proposed Decision. If the Board rejects the Proposed Decision, they will hold a Full Board Hearing in order to review the entire hearing record again before finalizing their decision.

Randy Adams

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December 17, 2010

Your appeal should be mailed to the following address:

Lori McGartland, Division Chief  
Employer Services Division  
P.O. Box 942709  
Sacramento, CA 94229-2709

If you have any questions or concerns regarding this matter, please contact Jody Cozad, Manager, at (888) 225-7377.

Sincerely,



Tomi Jimenez, Section Manager  
Compensation & Employer Review Unit

Enclosures

Cc: Pedro Carrillo, City of Bell  
Lori McGartland, Chief, Employer Services Division

**§555. Action of Executive Officer.**

The Executive Officer is hereby authorized to act: on any application for refund of contributions, crediting of service, correction of records, retirement for disability or service, and death benefits and allowances; and to fix and authorize the payment of any refund, allowance or benefit to which such applicant may be found to be entitled; to cause medical examination of retired persons; and to reinstate such persons from retirement upon his determination that disability does not exist. The Executive Officer may refer the question of an applicant's entitlement to any refund, allowance or benefit or of his reinstatement from retirement to a hearing officer for hearing.

The Executive Officer is hereby authorized and empowered to delegate to his subordinates authority to take any such action on his behalf.

**§555.1. Right of Appeal.**

Any applicant dissatisfied with the action of the Executive Officer on his application, other than his referral of the matter for hearing, may appeal such action to the Board by filing a written notice of such appeal at the offices of the Board within thirty days of the date of the mailing to him by the Executive Officer, at his most recent address of record, of notice of the action and right of appeal. An appeal shall contain a statement of the facts and the law forming the basis for appeal. Upon a satisfactory showing of good cause, the Executive Officer may grant additional time not to exceed 30 days, within which to file such appeal.

**§555.2. Statement of Issues.**

Any applicant filing an appeal shall be entitled to a hearing, and upon the filing of an appeal in accordance with these rules, or upon the Executive Officer's referral of any question for hearing, the Executive Officer shall execute a statement of issues. Such action of the Executive Officer shall not preclude the Board from recalling the proceedings for its review or hearing.

**§555.3. Accusation.**

Any member whose retirement for disability has been requested by his employer shall be entitled to a hearing. The Executive Officer, upon determination that a member shall be retired for disability on such application, shall file an accusation and serve a copy thereof on the member and his employer.

**§555.4. Hearings.**

All hearings shall be conducted in accordance with the provisions of Chapter 5, Part 1, Division 3, Title 2 of the Government Code. Each case shall be heard by the hearing officer alone. All proposed decisions of hearing officers shall be referred to the Board. The Executive Officer is hereby authorized and empowered to take, in the name and on behalf of the Board, any action which the Board is authorized or directed by law to take with respect to procedural and jurisdictional matters in connection with any case in which a statement of issues or accusation has been filed.